

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Amarilys DePena,

Plaintiff,

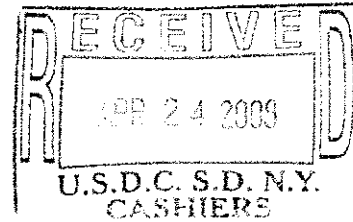
08 CV 3869
Docket No. **3869**
Petition for Removal

-against-

JUDGE BUCHWALD

Elrac, Inc. d/b/a Uniforse Rent-A-Car and
"John Doe," a fictitious name for an individual
whose identity is not currently known,

Defendants.
-----X



**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK**

1. On March 14, 2008, a Summons and Complaint was filed in the Supreme Court of the State of New York, County of Bronx, and thereafter served upon defendant, Elrac, Inc., at their corporate offices in the above-entitled action against petitioner/defendant. The index number previously procured by plaintiff is 302121/08. No further proceedings have been had herein.

2. The above-described action is a civil action for which the Court has jurisdiction under 28 U.S.C. §1332(a)(1) and is one which may be removed to this Court by the Petitioner/Defendant herein pursuant to the provision of 28 U.S.C. §1441.

3. Plaintiff alleges in the complaint that she is a resident of the State of New York. A copy of the Summons and Complaint is annexed hereto as Exhibit "A." The Court's jurisdiction is based upon diversity of citizenship, 28 U.S.C. Section 1332 in that the Plaintiff and all Defendants are citizens of different states. Elrac, Inc. has its principal place of business at 155 Polifly Road, Hackensack, New Jersey, and is incorporated in the State of Delaware.

4. Moreover, the amount in controversy exceeds \$75,000.00.

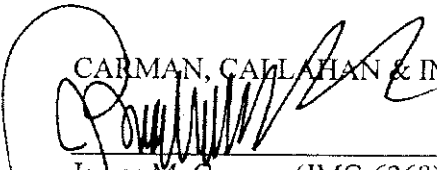
5. Petitioner/Defendant will pay all costs and disbursements incurred by reason of the removal proceedings hereby brought should it be determined that this action is not removable or is improperly removed.

6. Venue in the Southern District of New York is proper pursuant to 28 U.S.C. Section 112 and 28 U.S.C. Section 1391(a).

WHEREFORE, Petitioner prays that the above action now pending against it in the Supreme Court of the State of New York, County of Bronx, be removed therefrom to the United States District Court for the Southern District of New York in accordance with 28 U.S.C. Sections 1441 and 1446.

Dated: Farmingdale, New York
April 21, 2008

CARMAN, CALLAHAN & INGHAM, LLP



James M. Carman (JMC-6268)
Attorneys for Defendant
Elfac, Inc.
266 Main Street
Farmingdale, New York 11735
516-249-3450

To: Tarasov & Associates, P.C.
Attorneys for Plaintiff
36 Avenue O
Brooklyn, New York 11204
718-368-0690
File No. 2542

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: 302121-08
Date Purchased: 3-17-08

AMARILYS DePENA

SUMMONS

Plaintiff,

Plaintiff designates Bronx
County as the place of trial.

-against-

The basis of venue is:
Plaintiff's place of residence

ELRAC, INC. d/b/a ENTERPRISE RENT-A-CAR,
and "JOHN DOE" a fictitious name for an individual
whose identity is not currently known

Plaintiff resides at:
396 East 155th Street, Apt 2
Bronx, New York 10455
County of Bronx

Defendants.

To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney(s) within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Brooklyn, New York
March 14, 2008

Yours, etc.

TARASOV & ASSOCIATES, P.C.

By:

I. Tarasov

Igor Tarasov, Esq.
Attorneys for Plaintiff
AMARILYS DePENA
36 Avenue O
Brooklyn, New York 11204
718-368-0690
Our File No.: 2542

TO: ELRAC, INC. d/b/a ENTERPRISE RENT-A-CAR
1550 Route 23 North
Wayne, New Jersey 07470

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
AMARILYS DePENA

Plaintiff,

**VERIFIED
COMPLAINT**

-against-

Index No.:

ELRAC, INC. d/b/a ENTERPRISE RENT-A-CAR,
and "JOHN DOE" a fictitious name for an individual
whose identity is not currently known

Defendants.
-----X

Plaintiff, by her attorneys, TARASOV & ASSOCIATES, P.C., complaining of the defendants,
respectfully alleges, upon information and belief:

1. That at all times hereinafter mentioned, plaintiff AMARILYS DePENA was, and still is, a resident of the County of Bronx, City and State of New York.
2. That at all times hereinafter mentioned, defendant ELRAC, INC. d/b/a ENTERPRISE-RENT-A-CAR (hereinafter referred to as "ELRAC") was, and still is, a foreign business corporation duly organized and existing under and by virtue of the laws of the State of Delaware.
3. That at all times hereinafter mentioned, defendant ELRAC was, and still is, a foreign business corporation duly authorized to do business in the State of New York.
4. That at all times hereinafter mentioned, defendant ELRAC maintained a principal place of business and executive office in the County of Passaic, Township of Wayne, and State of New Jersey, with an office at 1550 Route 23 North, Wayne, New Jersey 07470.
5. That at all times hereinafter mentioned, defendant ELRAC was the owner of a certain 2006 Chevrolet motor vehicle bearing, upon information and belief, New York State registration number CZW5900.

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6. That at all times hereinafter mentioned, defendant JOHN DOE operated the aforementioned motor vehicle bearing, upon information and belief, New York State registration number CZW5900.

7. That at all times hereinafter mentioned, defendant JOHN DOE operated the aforementioned motor vehicle with the permission of defendant ELRAC.

8. That at all times hereinafter mentioned, defendant JOHN DOE operated the aforementioned motor vehicle with the knowledge of defendant ELRAC.

9. That at all times hereinafter mentioned, defendant JOHN DOE operated the aforementioned motor vehicle with the consent of defendant ELRAC.

10. That at all times hereinafter mentioned, defendant JOHN DOE operated the aforementioned motor vehicle in the scope of his employment with defendant ELRAC.

11. That at all times hereinafter mentioned, defendant ELRAC managed the aforementioned motor vehicle.

12. That at all times hereinafter mentioned, defendant JOHN DOE managed the aforementioned motor vehicle.

13. That at all times hereinafter mentioned, defendant ELRAC maintained the aforementioned motor vehicle.

14. That at all times hereinafter mentioned, defendant JOHN DOE maintained the aforementioned motor vehicle.

15. That at all times hereinafter mentioned, defendant ELRAC controlled the aforementioned motor vehicle.

16. That at all times hereinafter mentioned, defendant JOHN DOE controlled the aforementioned motor vehicle.

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17. That at all times hereinafter mentioned, plaintiff AMARILYS DePENA was the operator of a certain 2007 Toyota motor vehicle bearing New York State registration number SVR8545.

18. That at all times hereinafter mentioned, Bruckner Boulevard and Barretto Street in the County of Bronx, City and State of New York, were public roadways, streets and/or thoroughfares.

19. That on the 15th day of September, 2007, defendant JOHN DOE was operating the vehicle owned by defendant ELRAC at the aforementioned location.

20. That on the 15th day of September, 2007, plaintiff AMARILYS DePENA was operating her motor vehicle at the aforementioned location.

21. That on the 15th day of September, 2007, at the aforementioned location, the motor vehicle owned by defendant ELRAC and operated by defendant JOHN DOE came into contact with the motor vehicle operated by Plaintiff AMARILYS DePENA.

22. That directly as a result of said occurrence, plaintiff AMARILYS DePENA was caused to sustain serious personal injuries and to have suffered pain, shock and mental anguish; that upon information and belief, these injuries and their effects will be permanent and are of a lasting nature; and as a result of said injuries plaintiff has been caused to incur, and will continue to incur, expenses for medical care, attention and treatment; and, as a further result, plaintiff was, and will continue to be, rendered unable to perform plaintiff's normal activities and duties and has sustained a resultant loss therefrom.

23. That the said occurrence was directly as a result of, and was due solely and wholly to, the negligence, carelessness and recklessness of the defendants in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid motor vehicle, and the defendants were otherwise negligent, careless and reckless under the circumstances then and there prevailing, all without any fault, negligence, or other culpable conduct on plaintiff's part contributing thereto.

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24. That plaintiff AMARILYS DePENA sustained serious injuries as defined by §5102(d) of the Insurance Law of the State of New York.

25. That plaintiff AMARILYS DePENA sustained serious injury and economic loss greater than basic economic loss as defined by §5104 of the Insurance Law of the State of New York.

26. The plaintiff AMARILYS DePENA is not seeking to recover any damages for which she has been reimbursed by no-fault insurance and/or for which no-fault insurance is obligated to reimburse her. Plaintiff AMARILYS DePENA is seeking to recover only those damages not recoverable through no-fault insurance under the facts and circumstances in this action.

27. That this action falls within one or more of the exceptions set forth in CPLR §1602.

28. As a result of the foregoing, the amount of damages sought herein exceeds the jurisdictional limits of all lower courts, which might otherwise have jurisdiction herein.

WHEREFORE, plaintiff demands monetary judgment against the defendants in an amount to be determined upon the trial of this action, together with the costs and disbursements of this action.

Dated: Brooklyn, New York
March 14, 2008

Yours, etc.

TARASOV & ASSOCIATES, P.C.

By: I. Tarasov
Igor Tarasov, Esq.
Attorneys for Plaintiff
AMARILYS DePENA
36 Avenue O
Brooklyn, New York 11204
718-368-0690
Our File No.: 2542

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ATTORNEY'S VERIFICATION

IGOR TARASOV, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury.

I am an attorney at TARASOV & ASSOCIATES, P.C., attorneys of record for plaintiff, AMARILYS DePENA. I have read the annexed COMPLAINT and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because plaintiff is not presently in the county wherein I maintain my offices.

Dated: Brooklyn, New York
March 14, 2008

I. Tarasov
IGOR TARASOV, ESQ.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.:

AMARILYS DePENA

Plaintiff,

-against-

ELRAC, INC. d/b/a ENTERPRISE RENT-A-CAR, and "JOHN DOE" a
fictitious name for an individual whose identity is not currently known

Defendants.

SUMMONS AND VERIFIED COMPLAINT

TARASOV & ASSOCIATES, P.C.

Attorneys for Plaintiff AMARILYS DePENA

Office and Post Office Address, Telephone

36 Avenue O
Brooklyn, NY 11204
718-368-0690

Service of a copy of the within
is hereby admitted.

Dated:.....20.....

Signature (Rule 130-11.1-a)

PRINT NAME BENEATH

Attorney(s) for

PLEASE TAKE NOTICE:

o NOTICE OF ENTRY

that the within is a (certified) true copy of a
Duly entered in the office of the clerk of the within named court on

20

o NOTICE OF SETTLEMENT

that an order
will be presented for settlement to the HON.
within named Court, at
on 20 at

of which the within is a true copy
One of the judges of the

M.

Yours, etc

Dated,

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DEPARTMENT OF STATE
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ALBANY, NY 12231-0001

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State of New York - Department of State
Division of Corporations

Party Served:
ELRAC, INC.

Plaintiff/Petitioner:
DEPENA, AMARILYS

C/O C T CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NY 10011

Dear Sir/Madam:

Enclosed herewith is a legal document which was served upon the Secretary of State on 03/26/2008 pursuant to SECTION 306 OF THE BUSINESS CORPORATION LAW. This copy is being transmitted pursuant to such statute to the address provided for such purpose.

Very truly yours,
Division of Corporations

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

ss:

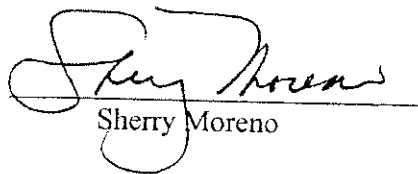
COUNTY OF NASSAU)

Sherry Moreno, being duly sworn, deposes and says:

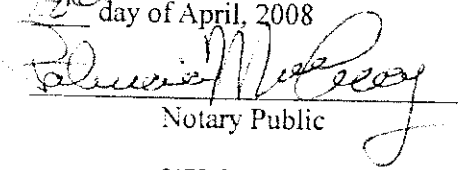
I am not a party to the action, am over 18 years of age and reside in the State of New York.

On April ~~22~~ 2008, I served a true copy of the annexed Civil Cover Sheet, Rule 7.1 Statement and Notice of Petition for Removal by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known addresses of the addressees as indicated below:

Tarasov & Associates, P.C.
Attorneys for Plaintiff
36 Avenue O
Brooklyn, New York 11204
718-368-0690
File No. 2542


Sherry Moreno

Sworn to before me this
~~22~~¹² day of April, 2008


Notary Public

PATRICIA MCWHERRY
Notary Public, State of New York
No. 014011271
Qualified in Suffolk County
Commission Expires March 30, 2010